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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,)	No.: CR 14-0196 CRB
)	
v.)	UNITED STATES' NOTICE REGARDING
)	POTENTIAL VIOLATION OF RULE 2-100 OF
KWOK CHEUNG CHOW, et. al.,)	CALIFORNIA RULES OF PROFESSIONAL
)	CONDUCT – COMMUNICATION WITH
Defendants.)	REPRESENTED PARTY
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The government hereby provides the Court with notice of a potential violation of Rule 2-100 of the California Rules of Professional Conduct. Rule 2-100 provides that “[w]hile representing a client, a member shall not communicate directly or indirectly about the subject of the representation with a party the member knows to be represented by another lawyer in the matter, unless the member has the consent of the other lawyer.” Cal. Rules of Professional Conduct Rule 2-100.

Thau Benh Cam is a witness cooperating with the government and is due to testify this upcoming week at trial. Mr. Cam is currently represented by a CJA panel defense attorney from Sacramento, attorney Michael Hansen, and was previously represented by Assistant Federal Public Defender Matthew Bockmon of the Eastern District of California. The government understands from attorney Hansen that counsel for defendant CHOW was notified that Mr. Cam was represented. It appears that after being so notified, counsel for defendant CHOW nonetheless approached Mr. Cam and attempted to interview him, eliciting some substantive answers. The government is unaware of any information indicating that counsel for defendant CHOW obtained permission from attorney Hansen to speak directly to Mr. Cam. Accordingly, the government approached counsel for CHOW to inquire as to the nature of the contact with Mr. Cam. The following email exchange occurred (read from bottom to top):

From: Curt Briggs [mailto:curt.briggs@briggslawsanfrancisco.com]
Sent: Friday, December 04, 2015 4:14 PM
To: Frentzen, William (USACAN)
Cc: Tony Serra (jtonyserra@gmail.com); smithtyler42@gmail.com; Hasib, Waqar (USACAN); Badger, Susan (USACAN)
Subject: Re: contacts issue

I am trying to answer to the best of my ability but work-product is involved. I admit that I was informed he was represented. I admit I instructed that we visit him in custody. Those are independent of each other. Other than that I would be divulging strategy which I expect to be material during the cross examination of Mr. Cam. That is the best I can give you at this point.

On Fri, Dec 4, 2015 at 3:33 PM, Frentzen, William (USACAN)
 <William.Frentzen@usdoj.gov> wrote:

You were told that he was represented and then made contact with him regardless. Do you deny that? Or do you have an explanation? Thanks.

On Dec 4, 2015, at 3:14 PM, "Curt Briggs"
 <curt.briggs@briggslawsanfrancisco.com><mailto:curt.briggs@briggslawsanfrancisco.co
 m>> wrote:

Thank you for the opportunity to clarify. No ethical rules were violated in connection with our interview with Mr. Cam. I would be happy to look into this further and provide a more detailed response if you would forward me any documentation or support for the position that we wrongfully communicated with Mr. Cam.

On Fri, Dec 4, 2015 at 1:05 PM, Frentzen, William (USACAN)
 <William.Frentzen@usdoj.gov><mailto:William.Frentzen@usdoj.gov>> wrote:
 Counsel, we are concerned that it appears that contact was made with a represented party in this case -- Thau Benh Cam at [REDACTED] -- after you were already informed that Mr. Cam was represented by counsel. As you know, that type of contact would be an

1 ethical violation. We would like to give you an opportunity to explain what
2 occurred. Please respond in writing or give us a call regarding this issue. Thanks, WF

3 Exclusion of any cross-examination material obtained in violation of Rule 2-100 is a potential
4 remedy. *See, e.g., United States v. Powe*, 9 F.3d 68 (9th Cir. 1983)(noting that court is empowered to
5 use its supervisory powers to exclude evidence obtained in violation of Rule 2-100). Nonetheless, the
6 government does not hereby seek suppression; rather, the government merely seeks to notify the Court
7 of the apparent violation of the ethics rules so that the Court can proceed as it sees fit.

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9 DATED: December 14, 2015

Respectfully submitted,

10 BRIAN J. STRETCH
11 Acting United States Attorney

12 /s/
13 SUSAN E. BADGER
14 WILLIAM FRENTZEN
15 S. WAQAR HASIB
16 Assistant United States Attorneys
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